

HOUSE BILL No. 1403

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-2-16-3; IC 32-37-1-1; IC 33-23-8-4; IC 34-24-1-1; IC 35-43-5.

Synopsis: Insurance fraud. Establishes the offense of insurance fraud as a Class D felony. Makes the offense a Class C felony if: (1) a person commits a second or subsequent offense; or (2) the value of property, services, or other benefits obtained by a person as a result of the offense or the economic loss suffered by another person as a result of the offense is at least \$2,500.

Effective: July 1, 2005.

Thomas, Reske

January 13, 2005, read first time and referred to Committee on Insurance.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1403

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-2-16-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) All preprinted
3 claim forms provided by an insurer to a claimant that are required as a
4 condition of payment of a claim must contain a statement that clearly
5 states in substance the following:

6 "A person who knowingly and with intent to defraud an insurer
7 files a statement of claim containing any false, incomplete, or
8 misleading information commits a felony."

9 (b) The lack of a statement required under subsection (a) does not
10 constitute a defense against a prosecution under ~~IC 35-43-5-4(10)~~.
11 **IC 35-43-5-4.5.**

12 SECTION 2. IC 32-37-1-1 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This article does not
14 apply to the following:

15 (1) A contract between a performing rights society and:
16 (A) a broadcaster licensed by the Federal Communications
17 Commission;



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- 1 (B) a cable television operator or programmer; or
- 2 (C) another transmission service.
- 3 (2) An investigation by a law enforcement agency.
- 4 (3) An investigation by a law enforcement agency or other person
- 5 concerning a suspected violation of IC 24-4-10-4, IC 35-43-4-2,
- 6 or ~~IC 35-43-5-4(11)~~. **IC 35-43-5-4(10)**.

7 SECTION 3. IC 33-23-8-4 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. If a practitioner is
 9 convicted under ~~IC 35-43-5-4(10)~~ **IC 35-43-5-4.5** of:

- 10 (1) insurance fraud;
- 11 (2) an attempt to commit insurance fraud; or
- 12 (3) conspiracy to commit insurance fraud;

13 the sentencing court shall provide notice of the conviction to each
 14 governmental body that has issued a license to the practitioner.

15 SECTION 4. IC 34-24-1-1 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The following
 17 may be seized:

- 18 (1) All vehicles (as defined by IC 35-41-1), if they are used or are
- 19 intended for use by the person or persons in possession of them to
- 20 transport or in any manner to facilitate the transportation of the
- 21 following:

22 (A) A controlled substance for the purpose of committing,
 23 attempting to commit, or conspiring to commit any of the
 24 following:

- 25 (i) Dealing in or manufacturing cocaine, a narcotic drug, or
- 26 methamphetamine (IC 35-48-4-1).
- 27 (ii) Dealing in a schedule I, II, or III controlled substance
- 28 (IC 35-48-4-2).
- 29 (iii) Dealing in a schedule IV controlled substance
- 30 (IC 35-48-4-3).
- 31 (iv) Dealing in a schedule V controlled substance
- 32 (IC 35-48-4-4).
- 33 (v) Dealing in a counterfeit substance (IC 35-48-4-5).
- 34 (vi) Possession of cocaine, a narcotic drug, or
- 35 methamphetamine (IC 35-48-4-6).
- 36 (vii) Dealing in paraphernalia (IC 35-48-4-8.5).
- 37 (viii) Dealing in marijuana, hash oil, or hashish
- 38 (IC 35-48-4-10).

39 (B) Any stolen (IC 35-43-4-2) or converted property
 40 (IC 35-43-4-3) if the retail or repurchase value of that property
 41 is one hundred dollars (\$100) or more.

42 (C) Any hazardous waste in violation of IC 13-30-6-6.

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- 1 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass
 2 destruction (as defined in IC 35-41-1-29.4) used to commit,
 3 used in an attempt to commit, or used in a conspiracy to
 4 commit an offense under IC 35-47 as part of or in furtherance
 5 of an act of terrorism (as defined by IC 35-41-1-26.5).
 6 (2) All money, negotiable instruments, securities, weapons,
 7 communications devices, or any property used to commit, used in
 8 an attempt to commit, or used in a conspiracy to commit an
 9 offense under IC 35-47 as part of or in furtherance of an act of
 10 terrorism or commonly used as consideration for a violation of
 11 IC 35-48-4 (other than items subject to forfeiture under
 12 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
 13 (A) furnished or intended to be furnished by any person in
 14 exchange for an act that is in violation of a criminal statute;
 15 (B) used to facilitate any violation of a criminal statute; or
 16 (C) traceable as proceeds of the violation of a criminal statute.
 17 (3) Any portion of real or personal property purchased with
 18 money that is traceable as a proceed of a violation of a criminal
 19 statute.
 20 (4) A vehicle that is used by a person to:
 21 (A) commit, attempt to commit, or conspire to commit;
 22 (B) facilitate the commission of; or
 23 (C) escape from the commission of;
 24 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 25 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 26 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 27 under IC 35-47 as part of or in furtherance of an act of terrorism.
 28 (5) Real property owned by a person who uses it to commit any of
 29 the following as a Class A felony, a Class B felony, or a Class C
 30 felony:
 31 (A) Dealing in or manufacturing cocaine, a narcotic drug, or
 32 methamphetamine (IC 35-48-4-1).
 33 (B) Dealing in a schedule I, II, or III controlled substance
 34 (IC 35-48-4-2).
 35 (C) Dealing in a schedule IV controlled substance
 36 (IC 35-48-4-3).
 37 (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
 38 (6) Equipment and recordings used by a person to commit fraud
 39 under ~~IC 35-43-5-4(11)~~ **IC 35-43-5-4(10)**.
 40 (7) Recordings sold, rented, transported, or possessed by a person
 41 in violation of IC 24-4-10.
 42 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as

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defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes that a person attempts to sell in violation of IC 24-3-5.2, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.2.

(13) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).

(2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

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(4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.

(6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 5. IC 35-43-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or as a computer generated document, including the following:

- (1) An account.
- (2) A bill for services.
- (3) A bill of lading.
- (4) A claim.
- (5) A diagnosis.
- (6) An estimate of property damages.
- (7) A hospital record.
- (8) An invoice.
- (9) A notice.
- (10) A proof of loss.
- (11) A receipt for payment.
- (12) A physician's records.
- (13) A prescription.
- (14) A statement.
- (15) A test result.
- (16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

- (1) to receive a coin, bill, or token made for that purpose; and
- (2) in return for the insertion or deposit of a coin, bill, or token automatically:
 - (A) to offer, provide, or assist in providing; or
 - (B) to permit the acquisition of;
 some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.

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(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

(g) "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

(h) "Identifying information" means information that identifies an individual, including an individual's:

(1) name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(2) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(3) unique electronic identification number, address, or routing code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value; or

(B) initiate a transfer of funds.

(i) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19).

(3) A written agreement entered into under IC 27-1-25.

(j) "Insurer" has the meaning set forth in IC 27-1-2-3(x). **The term also includes the following:**

(1) A reinsurer.

(2) A purported insurer or reinsurer.

(3) A broker.

(4) An agent of an insurer, a reinsurer, a purported insurer or reinsurer, or a broker.

(k) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(l) "Make" means to draw, prepare, complete, counterfeit, copy or

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otherwise reproduce, or alter any written instrument in whole or in part.

(m) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(n) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes ~~poor relief, township assistance~~, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(o) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

(p) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

(q) "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

(r) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 6. IC 35-43-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A person who:

(1) with intent to defraud, obtains property by:

(A) using a credit card, knowing that the credit card was unlawfully obtained or retained;

(B) using a credit card, knowing that the credit card is forged,

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1 revoked, or expired;
 2 (C) using, without consent, a credit card that was issued to
 3 another person;
 4 (D) representing, without the consent of the credit card holder,
 5 that the person is the authorized holder of the credit card; or
 6 (E) representing that the person is the authorized holder of a
 7 credit card when the card has not in fact been issued;
 8 (2) being authorized by an issuer to furnish property upon
 9 presentation of a credit card, fails to furnish the property and, with
 10 intent to defraud the issuer or the credit card holder, represents in
 11 writing to the issuer that the person has furnished the property;
 12 (3) being authorized by an issuer to furnish property upon
 13 presentation of a credit card, furnishes, with intent to defraud the
 14 issuer or the credit card holder, property upon presentation of a
 15 credit card, knowing that the credit card was unlawfully obtained
 16 or retained or that the credit card is forged, revoked, or expired;
 17 (4) not being the issuer, knowingly or intentionally sells a credit
 18 card;
 19 (5) not being the issuer, receives a credit card, knowing that the
 20 credit card was unlawfully obtained or retained or that the credit
 21 card is forged, revoked, or expired;
 22 (6) with intent to defraud, receives a credit card as security for
 23 debt;
 24 (7) receives property, knowing that the property was obtained in
 25 violation of subdivision (1) of this section;
 26 (8) with intent to defraud the person's creditor or purchaser,
 27 conceals, encumbers, or transfers property;
 28 (9) with intent to defraud, damages property; **or**
 29 ~~(10) knowingly and with intent to defraud, makes, utters, presents,~~
 30 ~~or causes to be presented to an insurer or an insurance claimant,~~
 31 ~~a claim statement that contains false, incomplete, or misleading~~
 32 ~~information concerning the claim; or~~
 33 ~~(11) (10) knowingly or intentionally:~~
 34 (A) sells;
 35 (B) rents;
 36 (C) transports; or
 37 (D) possesses;
 38 a recording for commercial gain or personal financial gain that
 39 does not conspicuously display the true name and address of the
 40 manufacturer of the recording;
 41 commits fraud, a Class D felony.

42 SECTION 7. IC 35-43-5-4.5 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) A person who, knowingly and with intent to defraud:

(1) makes, utters, presents, or causes to be presented to an insurer or an insurance claimant, a claim statement that contains false, incomplete, or misleading information concerning the claim;

(2) presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, an oral or written statement that the person knows to contain materially false information as part of, in support of, or concerning a fact that is material to:

(A) an application for the issuance of an insurance policy;

(B) the rating of an insurance policy;

(C) a claim for payment or benefit under an insurance policy;

(D) premiums paid on an insurance policy;

(E) payments made in accordance with the terms of an insurance policy;

(F) an application for a certificate of authority;

(G) the financial condition of an insurer; or

(H) the acquisition of an insurer;

or conceals any information concerning a subject set forth in clauses (A) through (H);

(3) solicits or accepts new or renewal insurance risks by or for an insolvent insurer or other entity regulated under IC 27;

(4) removes:

(A) the assets;

(B) the record of assets, transactions, and affairs; or

(C) a material part of the assets or the record of assets, transactions, and affairs;

of an insurer or another entity regulated under IC 27, from the home office, other place of business, or place of safekeeping of the insurer or other regulated entity, or conceals or attempts to conceal from the department of insurance assets or records referred to in clauses (A) through (C); or

(5) diverts funds of an insurer or another person in connection with:

(A) the transaction of insurance or reinsurance;

(B) the conduct of business activities by an insurer or another entity regulated under IC 27; or

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1 (C) the formation, acquisition, or dissolution of an insurer
 2 or another entity regulated under IC 27;
 3 commits insurance fraud. Except as provided in subsection (b),
 4 insurance fraud is a Class D felony.

5 (b) An offense described in subsection (a) is a Class C felony if:

6 (1) the person who commits the offense has a prior unrelated
 7 conviction under this section; or

8 (2) the:

9 (A) value of property, services, or other benefits obtained
 10 or attempted to be obtained by the person as a result of the
 11 offense; or

12 (B) economic loss suffered by another person as a result of
 13 the offense;

14 is at least two thousand five hundred dollars (\$2,500).

15 SECTION 8. [EFFECTIVE JULY 1, 2005] (a) IC 35-43-5-4, as
 16 amended by this act, applies only to offenses committed after June
 17 30, 2005.

18 (b) IC 35-43-5-4.5, as added by this act, applies only to offenses
 19 committed after June 30, 2005.

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